

GEHMAN LAW PLLC

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October 20, 2010

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW, Room TW-A325
Washington, DC 20554

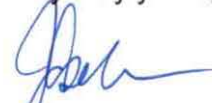
Re: Notice of ex parte presentation
WT Docket No. 10-112

Dear Madam Secretary:

On October 20, 2010, George Uram, Vice President and Todd Ellis, Senior Product Manager, Sensus USA, Inc., and I met with Roger Noel, Division Chief, Kathy Harris, Assistant Division Chief and Richard Arsenault, Chief Counsel of the Mobility Division, and Michael Connelly and John Schauble, of the Wireless Telecommunications Bureau. We discussed the items on the attached sheets which were sent by email prior to the meeting.

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, a copy of this letter is being filed electronically in the above-captioned docket and electronic copies are being submitted to the Commission staff listed below. If you have any questions regarding this matter, please contact the undersigned at (202) 223-1177.

Very truly yours,



Julian P. Gehman

cc: Roger Noel
Kathy Harris
Richard Arsenault
Michael Connelly
John Schauble

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October 20, 2010

Kathy Harris, Assistant Division Chief
Mobility Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Sensus USA Inc. ex parte presentation
WT Docket No. 10-112

Dear Ms. Harris:

In anticipation of our meeting today at 1:00, attached please find draft rules that Sensus USA Inc. would like to discuss.

Very truly yours,



Julian P. Gehman

§ 1.949 Application for renewal of authorizations

- (i) *Renewal Standard.* The Commission or the Wireless Telecommunications Bureau, acting under delegated authority, shall utilize the following standards in determining whether to grant, deny or condition applications for renewal of authorizations submitted pursuant to this Rule Section 1.949.
- (a) Licensees submitting a Renewal Showing or Service Certification demonstrating that they have satisfied, at the renewal deadline, any of the ten-year or final construction certification (performance) standards applicable to the license presumptively will qualify for license renewal and the renewal application may be denied or conditioned only for material and repeated violation of Commission rules in operation under authority of the license. The licensee does not necessarily need to satisfy the particular performance standard under which the license originally qualified, so long as the licensee satisfies a performance standard applicable to the license. For example, if the applicable construction requirement calls for either a percentage population coverage or substantial service, upon renewal, the licensee may demonstrate its satisfaction of either criterion.
- (b) Licensees that within seven years of the end of the license term have received an assignment or transfer of control of the license, from a bona fide unrelated party in an arms' length transaction for substantial consideration, such assignment or transfer being consummated upon prior approval of the Commission in accordance with Commission rules, may take up to seven years after assignment or transfer, to submit a Renewal Showing or Service Certification satisfying the standard set forth in Rule Section 1.949(i)(a), and the license shall be renewed conditionally, pending Commission or Bureau review of such Renewal Showing or Service Certification. For example, a licensee receiving assignment at the beginning of the eighth year of a ten-year license term may elect to have its license renewed conditionally pending Commission review of the licensee's Renewal Showing, which must be submitted by the fifth annual anniversary of the next license term and must satisfy the requirements of Rule Section 1.949(i)(a) or (c).
- (c) Licensees failing to satisfy Rule Section 1.949(i)(a) may file a rule waiver request and the Commission or the Bureau may in its discretion grant, deny or condition the renewal based on the following considerations: (i) whether the licensee's failure to qualify resulted from a credible and clearly explained market downturn, change in business strategy or other credible factor, (ii) whether the licensee is engaged in a bona fide business or other non-profit endeavor and not a sham, and (iii) whether the licensee's actions seem reasonably calculated to result in the satisfaction of Rule Section 1.949(i)(a) during the coming license term. The purpose of the rule is fulfilled by among other things satisfaction of the foregoing item (iii).

§ 1.952 Definition of substantial service

- (a) For purposes of construction certification (performance) and for license renewal, the term “substantial service” shall be defined as service which is sound, favorable, and substantially above a level of mediocre service.
- (b) In determining whether a licensee has provided substantial service, the Commission or the Wireless Telecommunications Bureau acting on delegated authority shall consider whether the licensed radio operations or other spectrum-related activity for which substantial service is claimed fit within and further the licensee’s well-defined and bona fide business model or strategic plan. The Commission or the Bureau shall review the licensee’s business or other operation at a high level without delving into details and shall take into account that there can be varying business models or strategic plans. For example, the business model of a CMRS provider can be different from that of a private or internal user, or of an equipment manufacturer, or the strategic plan of a non-profit or public educational institution.
- (c) A licensee presumptively is providing substantial service where (i) the licensee’s business model or strategic plan is bona fide and not a sham, (ii) the business model or strategic plan is specific and well-defined, (iii) the radio operation for which substantial service is claimed fits within and furthers said business model or strategic plan and (iv) the radio service for which substantial service is claimed is reasonably calculated to and in fact does provide radio or other spectrum service to the intended market or users under the business model or strategic plan.
- (d) The licensee claiming substantial service shall identify its particular business model or strategic plan and identify how the licensee’s radio operations or other spectrum-related activity satisfy the criteria set forth in Rule Section 1.952(c). The licensee will not be required to submit confidential or proprietary information but may do so in the licensee’s discretion pursuant to Rule Section 0.459, 47 CFR § 0.459.
- (e) In addition to considering the mandatory factors set forth in Rule Section 1.952(b) and (c), when determining whether the licensee has provided substantial service, the Commission or Bureau may in its discretion consider such other factors as it deems appropriate, including whether the licensee is offering a specialized or technologically sophisticated service that does not require a high level of coverage to be of benefit to customers, whether the licensee’s operations service niche markets or focus on serving populations outside of areas served by other licensees, and whether the licensee is serving a rural population.